

# PATENT COOPERATION TREATY

# PCT

From the INTERNATIONAL SE

To:

SQUIRE, SANDERS & DE  
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UNITED STATES OF AMERICA

62571-19 7/12/05

APR 25 2005

BY  
ATTORNEY

SQUIRE, SANDERS & DE

CALENDARED

(PCT Rule 44.1)

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL SEARCH REPORT AND  
THE WRITTEN OPINION OF THE INTERNATIONAL  
SEARCHING AUTHORITY, OR THE DECLARATION

Applicant's or agent's file reference 50623.00464	Date of mailing (day/month/year) 12/04/2005
International application No. PCT/US2004/040121	FOR FURTHER ACTION See paragraphs 1 and 4 below
Applicant ADVANCED CARDIOVASCULAR SYSTEMS, INC.	International filing date (day/month/year) 30/11/2004

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

#### Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

**When?** The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

**Where?** Directly to the International Bureau of WIPO, 34 chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
  - ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

#### 4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentaan 2  
NL-2280 HV Rijswijk

Authorized officer

Katia Kurzhauser

## NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

### INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

#### What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

#### When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

#### Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

#### How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

#### What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

## NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:  
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

### "Statement under article 19(1)" (Rule 48.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

### Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

### Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>50623.00464</b>	<b>FOR FURTHER ACTION</b> <small>see Form PCT/ISA/220 as well as, where applicable, item 5 below.</small>	
International application No. <b>PCT/US2004/040121</b>	International filing date (day/month/year) <b>30/11/2004</b>	(Earliest) Priority Date (day/month/year) <b>01/12/2003</b>
Applicant  <b>ADVANCED CARDIOVASCULAR SYSTEMS, INC.</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box II).

3. ☐ **Unity of invention is lacking** (see Box III).

**4. With regard to the title,**

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

**5. With regard to the abstract,**

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

**6. With regard to the drawings,**

a. the figure of the **drawings** to be published with the abstract is Figure No. 1

☒ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

# INTERNATIONAL SEARCH REPORT

International Application No  
PCT/US2004/040121

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 B29C67/00 B29B13/02 A61F2/06

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 B29C B29B A61F A61M

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2002/143382 A1 (HIJLKEMA LUUK ET AL) 3 October 2002 (2002-10-03) paragraph '0003! - paragraph '0041!; figures	1-62
X	US 6 293 959 B1 (MILLER JAY F ET AL) 25 September 2001 (2001-09-25) column 5, line 34 - column 6, line 56; figures	1-62
X	US 2003/208254 A1 (SHORTT JAMES) 6 November 2003 (2003-11-06) paragraph '0004! - paragraph '0036!; claim 1	13-62
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☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

### \* Special categories of cited documents:

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

- \*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- \*&\* document member of the same patent family

Date of the actual completion of the international search

6 April 2005

Date of mailing of the international search report

12/04/2005

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk

Authorized officer

# INTERNATIONAL SEARCH REPORT

International Application No  
PCT/US2004/040121

## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2002/035774 A1 (AUSTIN MICHAEL) 28 March 2002 (2002-03-28) paragraphs '0002!, '0003!, '0022!, '0063! - '0066!, '0070! -----	13-62
X	US 6 309 402 B1 (JENDERSEE BRADLEY A ET AL) 30 October 2001 (2001-10-30) column 3, line 34 - line 61 -----	13-62
A	US 6 066 156 A (YAN ET AL) 23 May 2000 (2000-05-23) claims 19-28 -----	1-62
A	US 5 795 318 A (WANG ET AL) 18 August 1998 (1998-08-18) column 2, line 9 - line 30; figures column 10, line 47 - column 11, line 19 -----	1-62
A	US 6 056 906 A (WERNETH ET AL) 2 May 2000 (2000-05-02) column 6, line 6 - line 56 -----	1-62

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US2004/040121

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 2002143382	A1	03-10-2002	WO 02078934 A1 US 2004177805 A1	10-10-2002 16-09-2004
US 6293959	B1	25-09-2001	US 2001014821 A1 EP 1000591 A2	16-08-2001 17-05-2000
US 2003208254	A1	06-11-2003	EP 1501449 A1 WO 03092548 A1	02-02-2005 13-11-2003
US 2002035774	A1	28-03-2002	US 2001001890 A1 US 2003192164 A1 AU 7589500 A EP 1214018 A2 WO 0121103 A2	31-05-2001 16-10-2003 24-04-2001 19-06-2002 29-03-2001
US 6309402	B1	30-10-2001	US 5836965 A AT 221399 T AU 708433 B2 AU 3957195 A CA 2202257 A1 DE 69527636 D1 DE 69527636 T2 EP 0787020 A1 JP 8164210 A WO 9612517 A1 US 6159229 A	17-11-1998 15-08-2002 05-08-1999 15-05-1996 02-05-1996 05-09-2002 03-04-2003 06-08-1997 25-06-1996 02-05-1996 12-12-2000
US 6066156	A	23-05-2000	AU 3872600 A EP 1158935 A1 JP 2002537945 A WO 0053123 A1 US 6245076 B1	28-09-2000 05-12-2001 12-11-2002 14-09-2000 12-06-2001
US 5795318	A	18-08-1998	US 5716410 A	10-02-1998
US 6056906	A	02-05-2000	US 5913871 A	22-06-1999

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY  
(PCT Rule 43*bis*.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/US2004/040121

International filing date (day/month/year)  
30.11.2004

Priority date (day/month/year)  
01.12.2003

International Patent Classification (IPC) or both national classification and IPC  
B29C67/00, B29B13/02, A61F2/06

Applicant  
ADVANCED CARDIOVASCULAR SYSTEMS, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office  
D-80298 Munich

Authorized Officer

Kobd. C





**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2004/040121

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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2004/040121

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**Box No. V Reasoned statement under Rule 43b/s.1(a)(I) with regard to novelty, inventive step or  
Industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-62
Inventive step (IS)	Yes: Claims	
	No: Claims	1-62
Industrial applicability (IA)	Yes: Claims	1-62
	No: Claims	

2. Citations and explanations

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

Re Item V.

- 1 Reference is made to the following documents:

D1 : US 2002/143382 A1

D2 : US 6 293 959 B1

D3 : US 2003/208254 A1

D4 : US 2002/035774 A1

D5 : US 6 309 402 B1

- 2 INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parentheses applying to this document):

**A method of making a medical device comprising**

**-adjusting the temperature of the piece to a target temperature followed by a crimping step (paragraphs 20 and 29)**

**-adjusting the temperature of the piece to a target temperature during a crimping step (paragraph 47 and paragraph 41, last four lines)**

**-adjusting the temperature of the piece to a target temperature and maintaining the temperature of the piece within plus or minus 5 °C of the target temperature during a crimping step (paragraphs 36-37)**

**-adjusting the temperature of the piece to a temperature other than ambient towards a target temperature and continuing to adjust the temperature of the piece remains towards the target temperature during a crimping step (paragraphs 39 and 41).**

- 4 INDEPENDENT CLAIMS 13 and 57

Independent claims 13 and 57 comprise all essential features of independent claim 1. Mutatis mutandis the same arguments specified with respect to claim 1 hold also for claims 13 and 57.

**5 DEPENDENT CLAIMS 2-12, 14-56, 58-62**

Dependent claims 2-12, 14-56, 58-62 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT) since their subject matters relate to the results of simple optimization processes.

**6 INDUSTRIAL APPLICABILITY**

The industrial applicability of the present invention is given.

**Re Item VII.**

- 7 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D5 is not mentioned in the description, nor are these documents identified therein.
- 8 The last page of the application comprises some paragraphs which imply that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.

**Re Item VIII.**

- 9 Although claims 1, 13 and 57 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
- 10 The subject-matters of claims 10, 14, 15, 19, 28, 29, 30-37, 42 and 58-62 do not meet the requirements of Article 6 PCT, since they simultaneously specify different temperature ranges for the target temperatures.  
A similar objection applies to the subject-matter of independent claim 1 ("or").